

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 18, 2010

No. 08-30616

Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JODY RUSSELL,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:06-CR-160-4

Before BENAVIDES, PRADO and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Jody Russell appeals the denial of her motion to reduce her sentence pursuant to 18 U.S.C. § 3582(c), in which she argued that her sentence should be reduced based on the amendment to the Guideline addressing crack cocaine. The district court denied the motion on the ground that Russell's original sentence of 51 months was within the reduced guidelines range of 41 to 51 months in prison. Russell avers that this reason is legally insufficient.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

In her § 3582(c) motion, Russell averred that, in fashioning a reduced sentence, the sentencing judge was obligated to take into account the prior sentence imposed and was to consider the 18 U.S.C. § 3553(a) factors. The district court implicitly had before it those factors Russell now contends it failed to consider, and this court can assume that it considered those factors prior to denying Russell's § 3582(c) motion. *See United States v. Evans*, 587 F.3d 667, 673 (5th Cir. 2009). The district court's failure to provide further explanation for denying Russell's § 3582(c) motion did not constitute an abuse of discretion. *See Evans*, 587 F.3d at 672, 674 (holding that a district court need not provide any reasons at all for denying a § 3582(c)(2) motion).

The sentence is AFFIRMED.